IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3387 OF 2004.
IN
CRIMINAL APPEAL NO. 964 OF 2004.

Prashant Shankar Kamble. ..Applicant.

VERSUS.

State of Maharashtra ..Respondent.

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Mr. A.S.Khandeparkar i/b M/s. Khandeparkar & Associates
for the applicant.

Mr. A.M.Shringarpure A.P.P. for the respondent.

CORAM: V.M.KANADE,J.

DATE : OCTOBER 1, 2004.

P.C.:-

1. Heard learned counsel appearing on behalf of the applicant and the learned APP for the State. The applicant is convicted by the trial court for having committed an offence under section 377 of the Indian Penal Code and sentenced to suffer R.I. for three years. The prosecution case is that the prosecutrix was a minor girl and she used to visit the house of the applicant where they had sexual intercourse on number of occasions and as result of which the prosecutrix became pregnant. Thereafter she was admitted in an Ashram. The prosecutrix had expressed her intention of aborting the fetus.

However, the doctor declined to abort the child as it was an advanced stage of pregnancy. The mother of the prosecutrix while admitting the girl in the Ahsram showed her age as 18 years. The birth certificate which was produced by the prosecution in the trial court shows that she was 15 years & 8 months old. The Ossification test shows that the prosecturix could be between the age of 13 to 16 years with the margin of 3 years on either side. The trial court has observed that the possibility of consent could not be ruled out, however, on account of the fact that the age of the girl was less than 16 years, the applicant was convicted and sentenced to undergo 3 years R.I. In my view, this is a fit case for grant of bail. Applicant be released on bail in the sum of Rs.5,000/- with one or two sureties of like amount.

. All concerned to act on an ordinary copy of this order duly authenticated by the Sheristedar of this Court.

(V.M.KANADE,J.)